

AN ACT

ENTITLED, An Act to revise certain provisions relating to credit against unpaid fines and costs for time served and to disallow credit for time served against unpaid victim restitution.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 23A-27-25.5 be amended to read as follows:

23A-27-25.5. No defendant may be imprisoned or jailed for failure to pay a fine, costs, or restitution or have any suspended prison or jail sentence revoked without a prior hearing. At the hearing, the defendant has the burden of proof to establish to the reasonable satisfaction of the magistrate or circuit judge that the defendant did not willfully fail to pay the fine, costs, or restitution or that the defendant did make a bona fide effort to pay the fine, costs, or restitution.

Failure by the defendant to make such a showing is grounds for being imprisoned or jailed. If the sentence provided for payment of fine or costs only, the term of jail or imprisonment may be no longer than the number of days equal to the total amount of the fine or costs imposed divided by sixty. For purposes of making this computation, any fraction of less than one day shall be dropped from the term of imprisonment. In no event may such imprisonment for failure to pay the fine, costs, and restitution together with all other time served or to be served exceed the maximum allowed by statute.

If the defendant establishes that nonpayment was not willful or that the defendant did make a bona fide effort to pay, the defendant may not be imprisoned or jailed for nonpayment. The magistrate or circuit judge shall consider other alternatives which take into account the state's interest in punishment and deterrence.

The court shall make findings in its decision.

An Act to revise certain provisions relating to credit against unpaid fines and costs for time served and to disallow credit for time served against unpaid victim restitution.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1075

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1075
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State